

**INSTRUCTION**Special EducationA. Public Awareness/Child Find

1. Stafford County Public Schools will, at least annually, conduct a public awareness campaign to:
  - a. inform the community of a disabled student's right to a free appropriate education and the availability of special education programs and services;
  - b. generate referrals;
  - c. identify, locate and evaluate disabled children; and
  - d. explain the nature of disabling conditions, the early warning signs of disabling conditions, and the need for early intervention.
2. Procedures for informing the community will show evidence of the use of a variety of materials and media, and will:
  - a. provide for personal contacts with community groups, public and private agencies and organizations; and
  - b. provide information in the person's native language or primary mode of communication.
3. There will be evidence of involvement of parents and community members, as well as the local Special Education Advisory Committee, in the required Child Find and community awareness campaign.
4. Stafford County Public Schools will maintain an active and continuing Child Find program designed to identify, locate and evaluate those children from birth to 21, inclusive, who are in need of special education and related services. Written procedures have been established for collecting, reviewing, and maintaining such data.

**INSTRUCTION**Special Education (continued)A. Public Awareness/Child Find (continued)

5. All children ages 2 to 21, inclusive, not enrolled in school and who are suspected of having a disabling condition are referred to the Supervisor of Elementary Special Education who will initiate the process of determining eligibility for special education services
6. Where such children are determined eligible for special education services, Stafford County Public Schools will offer appropriate programs and placements consistent with each child's IEP from 2 to 21 inclusive.

B. Screening

1. Stafford County Public Schools maintains screening procedures to assure the identification of disabled persons requiring special education residing within its jurisdiction. All procedural safeguards are maintained during the screening process including:
  - a. Written notice when appropriate;
  - b. Confidentiality; and
  - c. Maintenance of student's scholastic record.
2. The screening process for all children enrolled in Stafford County Public Schools is as follows:
  - a. All children, within 60 administrative working days of initial enrollment in a public school will be screened in the following areas to determine if formal assessment is indicated:
    - 1) Speech, voice, and language; and
    - 2) Vision and hearing.
  - b. All children (through grade three), within 60 administrative working days of initial enrollment in and Virginia Public School, will be screened for fine and gross motor

**INSTRUCTION**Special Education (continued)B. Screening (continued)

functions to determine if formal assessment if indicated;

c. Specific measures for instruments are employed which use:

- 1) both observational and performance techniques; and
- 2) techniques which guarantee non-discrimination.

C. Child Safety

1. Stafford County Public Schools maintains a formal Child Study Committee in each school to review records and other performance evidence of those children referred through a screening process, or referred by a source other than through screening (when a parent or external service provider makes a referral for example). All referrals will be made to the principal or designee. The committee will consist of at least three persons, including:
  - a. principal, or designee;
  - b. teachers;
  - c. specialists; and
  - d. referring source, as appropriate (except when referring source would breach confidentiality of child).
2. The Child Study Committee will meet within 10 administrative working days following referral.
3. Actions by the committee will be documented in writing and will include information upon which a decision was based.
4. No formal evaluation may be initiated without parent permission and/or notice and a referral to special education has been made.

**INSTRUCTION**Special Education (continued)D. Referral

1. Children suspected of being disabled will be referred by the Child Study Committee to the special education administrator for formal assessment. The referral to the special education administrator from the Child Study Committee will be made within five (5) administrative working days following the determination by the Child Study Committee that the child is suspected of being disabled.
2. The special education administrator, or designee, will:
  - a. record the date, reason for referral and name(s) of the person/agency making the referral;
  - b. implement procedures for maintaining the confidentiality of all data and institute procedural safeguards to:
    - 1) inform the parent of the referral in the native language or primary mode of communication, unless it is clearly not feasible to do so;
    - 2) advise the parent of his/her rights in the native language or primary mode of communication; and
    - 3) secure written permission of the parent for the assessment;
  - c. initiate formal assessment procedures; and
  - d. notify the referral source, when appropriate, of the results of the decision regarding determination of eligibility.

**INSTRUCTION**Special Education (continued)**E. Evaluation**

1. Stafford County Public Schools will establish procedures for the evaluation of referred children which include the following:
  - a. written prior notification (in native language);
  - b. opportunity for independent evaluation;
  - c. written parental consent; (only for initial evaluation)
  - d. assignment of surrogate parent when necessary;
  - e. opportunity for an impartial hearing;
  - f. confidentiality
  - g. opportunity for examination of records; and
  - h. nondiscriminatory testing.
2. Before any action is taken with respect to the initial placement of a disabled child in a special education program, a full and individual evaluation of the child's educational needs must be conducted in accordance with requirements.
3. Assessment components will be completed by qualified professional(s) prior to review by the eligibility committee for children suspected of being disabled in one or more of the following areas [See State Definitions of Handicapping Conditions and State and Stafford County Required Assessment Components]: Appendix A & D. These requirements are also applicable when a triennial review is conducted.
4. Testing and evaluation materials and procedures used for the purposes of evaluation and placement of disabled children must be selected and

**INSTRUCTION**Special Education (continued)E. Evaluation (continued)

administered so as not to be racially or culturally discriminatory.

5. Stafford County Public Schools will ensure, at a minimum, that tests and other evaluation materials:
  - a. are provided and administered in the child's native language or other mode of communication; unless it is clearly not feasible to do so;
  - b. have been validated for the specific purpose for which they are used; and
  - c. are administered by trained personnel in conformance with the instructions provided by their producers.
6. Tests and other evaluation materials include those tailored to assess specific areas of educational need and not merely those which are designed to provide a single general intelligence quotient.
7. Tests selected and administered so as to best ensure that when a test is administered to a child with impaired sensory, manual, or speaking skills, the test results accurately reflect the child's aptitude or achievement level or whatever other factors the test purports to measure, rather than reflecting the child's impaired sensory, manual, or speaking skills (except those which the test purports to measure).
8. No single procedure will be used as the sole criterion for determining an appropriate educational program for a child.
9. The evaluation will be made by a multidisciplinary team or group of persons, including:

**INSTRUCTION**Special Education (continued)E. Evaluation (continued)

- a. at least one teacher or other specialist with knowledge in the area of suspected disability.
  - b. the child's teacher or if the child does not have a regular teacher, a classroom teacher qualified to teach a child of that age, or if a child is below school age, a person qualified to teach that age; and
  - c. at least one person qualified to conduct individual diagnostic examinations.
10. Stafford County Public Schools will establish procedures to ensure that each child is assessed in all areas related to the suspected disability, including, where appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities.
11. The hearing of each disabled child will be tested during the eligibility process prior to placement in a special education program.
12. Complete audiological assessment, including tests which will assess inner and middle ear functioning, must be performed on each child who fails two hearing screening tests. The second hearing screening test will be completed not less than 15 nor more than 45 calendar days after administration of the first screening.
13. Stafford County Public Schools will solicit and consider pertinent information from the agency, if any that has been assigned legal custodial rights of a disabled child concerning evaluation of such child.

**INSTRUCTION**Special Education (continued)F. Eligibility

1. Stafford County Public Schools will establish procedures to ensure that eligibility for special education and related services is determined within 65 administrative working days after request for such services is received by the special education administrator.
2. The child will remain in the current placement during the determination of eligibility for special education and related services.
3. The eligibility committee will follow due process procedures in the determination of eligibility and in ensuring the confidentiality of records.
4. Eligibility of children for special education programs and related services will be determined by an eligibility committee.
5. Membership of the eligibility committee will include, but not be limited to, school division personnel representing the disciplines providing assessment components, and the special education administrator, or designee. At least one school division representative serving on the eligibility committee must have either assessed or observed the child.
6. The eligibility committee will review the assessment components, any pertinent information reported by an agency assigned legal custody of the child, and any other special reports to determine if the child has a disabling condition which requires special education and related services.
7. In interpreting evaluation data and in making eligibility decisions, the school eligibility committee will:
  - a. draw upon information from a variety of sources, including aptitude and achievement



**INSTRUCTION**Special Education (continued)F. Eligibility (continued)

test, teacher recommendations, physical condition, social or cultural background, and adaptive behavior; and

- b. ensure that information obtained from all of these sources is documented and carefully considered.
8. The eligibility committee will have a written summary which consists of essential deliberations supporting its findings as to the eligibility of each child for a special education program and related services. This summary will be signed by each eligibility committee member and all others present.
- a. The written summary will be maintained in the child's confidential file.
  - b. This summary statement of the eligibility committee's essential deliberations will be forwarded by the committee to the Individualized Education Program (IEP) committee upon determination of eligibility.
  - c. The written summary identifying students as learning disabled will include:
    - 1) a statement indicating whether or not the child has a specific learning disability;
    - 2) the basis for making the determination;
    - 3) relevant behavior noted during the observation and the relationship of that behavior to the child's academic functioning;
    - 4) educationally relevant medical findings, if any;

**INSTRUCTION**Special Education (continued)F. Eligibility (continued)

- 5) information indicating whether or not there is a severe discrepancy between the child's achievement and ability which cannot be corrected without special education and related services;
  - 6) effects of any environmental, cultural, or economic disadvantage, as determined by the team.
9. If it is determined that a child is disabled and needs special education and related services, an individualized education program (IEP) must be developed for the child within 30 calendar days.

G. Reevaluation

Stafford County Public Schools will ensure:

1. that each disabled child's individualized education program is reviewed annually, and
2. that an evaluation of the child, based on procedures which meet the requirement, is conducted every three year or more frequently if conditions warrant (all required components will be completed):
  - a. if the child's parent or teacher requests an evaluation; or
  - b. anytime a significant change in placement is being considered and the evaluations are not current.
3. Reevaluation may involve reviewing the existing evaluations and updating those evaluations which are necessary to make appropriate educational decisions or completing new evaluations.

**INSTRUCTION**Special Education (continued)G. Reevaluation (continued)

4. Notice is required for the triennial evaluation. Notice and consent are required for those evaluations requested by the school other than for triennial evaluations.

H. Independent Evaluation

Parents have a right to:

obtain an independent educational evaluation of their child; and

be provided, on request, information as to where an independent educational evaluation may be obtained.

A parent has the right to an independent educational evaluation at public expense if the parent disagrees with an evaluation obtained by Stafford County Public Schools. However, Stafford County Public Schools will have the right to initiate a due process hearing to show that its evaluation is appropriate. If the final decision is that the evaluation is appropriate, the parent still has the right to an independent educational evaluation, but not at public expense.

Whenever an independent educational evaluation is at public expense, the criteria under which the evaluation is obtained, including the location of the evaluation and the qualifications of the examiner, must be the same as the criteria which Stafford County Public Schools uses when it initiates an evaluation.

The results of the independent educational evaluation, whether at public expense or obtained by the parent:

must be considered by Stafford County Public Schools in any decision regarding a free appropriate public education for the child; and

may be presented as evidence at a hearing.

**INSTRUCTION**Special Education (continued)H. Independent Evaluation (continued)

A hearing officer may require an independent educational evaluation of the child. This evaluation will be at public expense and will be conducted in accordance with the regulations governing evaluation and assessment.

I. Continuum of Alternative Placements

1. The types of alternative placements that are available for disabled children in the school division include the following: regular class with accommodations resource, self-contained, separate facility, and residential.
2. The number of disabled children within each disability category who are served in each type of placement is reported annually.
3. Stafford County Public Schools will ensure that a continuum of alternative placements is available to meet the needs of disabled children who need special education and related services. The continuum required must make provision for supplementary services (such as resource room or itinerant instruction) to be provided in conjunction with class placement.
  - a. No single model for the delivery of services to any specific population or category of disabled children will be acceptable for meeting the requirement for a continuum of alternative placements (e.g. such as resource classes as the only option for children who need a self-contained placement or a separate facility as the only alternative placement for disabled students). All placement decisions must be based on the individual needs of each child. The schools will document fully all alternatives considered and the rationale for choosing the selected placement.

**INSTRUCTION**Special Education (continued)I. Continuum of Alternative Placements (continued)

- b. Disabled children must be served in a program with age-appropriate peers (e.g. secondary age children will be placed in a secondary school and elementary age children will be placed in an elementary school), unless it can be shown that for a particular disabled child the alternative placement is appropriate as documented by the IEP.
- c. If Stafford County Public Schools is unable to provide a free appropriate public education to a disabled child and it is not appropriately available in a State facility, other than the Woodrow Wilson Rehabilitation Center, the school division will offer to place the child in the Woodrow Wilson Rehabilitation Center or a non-sectarian private school for the disabled approved by the Board.

J. Records

- 1. Parents have the right to inspect and review any educational records relating to their child with respect to the identification, evaluation, and educational placement of the child, and the provision of a free appropriate public education to the child, which are collected, maintained, or used by Stafford County Public Schools. Stafford County Public Schools will comply with a request without unnecessary delay. When a request for disclosure of scholastic record data is made, such a request will be granted immediately, if practicable, but in no case more than five administrative working calendar days after the date of the request.
- 2. Stafford County Public Schools will comply with a request to inspect and review scholastic records before any meeting regarding an individualized education program or hearing relating to the identification, evaluation, or educational

**INSTRUCTION**Special Education (continued)J. Records (continued)

placement of the student or provision of a free appropriate public education. The right to inspect and review scholastic records includes: the right to a response from Stafford County Public Schools to reasonable requests for explanations and interpretations of the scholastic records; the right to request that Stafford County Public Schools provide copies of the scholastic records containing the information, if failure to provide the copies would effectively prevent the parent from exercising the right to inspect and review the scholastic records; and the right to have a representative of the parent inspect and review the scholastic records.

3. Stafford County Public Schools may presume that both parents have authority to inspect and review records relating to the student unless Stafford County Public Schools has been advised that both parents do not have the authority under applicable State law governing such matters as guardianship, separation, and divorce.
4. Stafford County Public Schools will keep a records of parties obtaining access to scholastic records collected, maintained, or used including the name of the party, the date access was given, and the purpose for which the party is authorized to use the record.
5. Parents may inspect and review only the information relating to their child or to be informed of that specific information even if the scholastic records includes information on more than one student.
6. Upon request parents have the right to be provided with a list of the types and locations of scholastic records collected, maintained, or used by the Stafford County Public Schools.

**INSTRUCTION**Special Education (continued)J. Records (continued)

7. Stafford County Public Schools may charge a fee for copies of the scholastic record(s) at reasonable cost, not to exceed the cost of reproduction. Such fee will not effectively prevent the parent, or their designee, from exercising their right to inspect and review said records. Stafford County Public Schools may not charge a fee for search or retrieval.
8. Amendment of records at parent's request.
  - a. A parent who believes that information in education records collected, maintained, or used is inaccurate or misleading or violates the privacy or other rights of the child, may request Stafford County Public Schools to amend the information.
  - b. Stafford County Public Schools shall decide whether to amend the information in accordance with the request within a reasonable period of time of receipt of the request.
  - c. If Stafford County Public Schools refuses to amend the information in accordance with the request, Stafford County Public Schools will inform the parent of the refusal and advise the parent of the right to a hearing.
9. Opportunity for a hearing.

Stafford County Public Schools, on request, provides an opportunity for a hearing to challenge information in education records to ensure that it is not inaccurate, misleading or otherwise in violation of the privacy or other rights of the child.

**INSTRUCTION**Special Education (continued)J. Records (continued)

## 10. Result of hearing.

- a. After the hearing if Stafford County Public Schools decides that the information is inaccurate, misleading or otherwise in violation of the privacy or other rights of the child, Stafford County Public Schools shall amend the information accordingly and so inform the parent in writing.
- b. If, as a result of the hearing, Stafford County Public Schools decided that the information is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child, Stafford County Public Schools shall inform the parent of the right to place in the records it maintains on the child a statement commenting on the information or setting forth any reasons for disagreeing with the decision of Stafford County Public Schools.
- c. Any explanation placed in the records of the child will:
  - 1) Be maintained by Stafford County Public Schools as part of the records of the child as long as the record or contested portion is maintained by Stafford County Public Schools; and
  - 2) If the records of the child or the contested portion is disclosed by Stafford County Public Schools to any party, the explanation will also be disclosed to the party.



**INSTRUCTION**Special Education (continued)J. Records (continued)

## 11. Hearing Procedures.

- a. A hearing held under Item 8 shall be conducted according to the procedures under Section 99.22 of Public Law 93-380, as amended, as follows.
  - 1) The hearing will be held within a reasonable period of time after Stafford County Public Schools has received the request; and, the parent of the eligible child will be given reasonable advance notice of the date, place, and time of the hearing.
  - 2) The hearing will be conducted by any party, including an official of Stafford County Public Schools who does not have a direct interest in the outcome of the hearing;
  - 3) The parent of the eligible child will be afforded a full and fair opportunity to present evidence relevant to the issues and may be assisted or represented by individuals of his/her choice at his/her expense, including an attorney.
  - 4) Stafford County Public Schools will make its decision in writing within a reasonable period of time after the conclusion of the hearing; and
  - 5) The decision of Stafford County Public Schools shall be based solely upon the evidence presented at the hearing and shall include a summary of the evidence and the reasons for the decision.

**INSTRUCTION**Special Education (continued)J. Records (continued)

## 12. Consent.

- a. Parental consent will be obtained before personally identifiable information is:
  - 1) Disclosed to anyone other than officials of Stafford County Public Schools collecting or using the information under this part, subject to paragraph (2) below, or,
  - 2) Used for any purpose other than meeting a requirement under this part.
- b. Stafford County Public Schools will release information from education records to other Local Educational Agencies without parental consent, unless prohibited by other applicable law.

## 13. Destruction of Information.

- a. Stafford County Public Schools will inform parents when personally identifiable information collected, maintained, or used under this part is no longer needed to provide educational services to the child.
- b. Personally identifiable information on a disabled child may be retained permanently unless the parents request that it be destroyed.
- c. The information will be destroyed at the request of the parents. However, a permanent record of a student's name, address, and phone number, his or her grades, attendance records, classes attended, grades level completed, and year completed may be maintained without time limitation.

**INSTRUCTION**Special Education (continued)K. Impartial Due Process Hearing

1. Stafford County Public Schools or the parent of a child determined or believed to be, disabled will have the right to initiate a hearing when a disagreement occurs on matters relating to identification, evaluation (including determination of whether or not an independent educational evaluation at public expense is appropriate) or education placement of the child.
2. The school may initiate due process to appeal parental refusals for evaluation or provision of special education and related services.

L. Child's Status During Proceedings

1. During the pendency of any administrative or judicial proceeding regarding a complaint, unless the school and the parent of the child agree otherwise, the child must remain in his current educational placement. While the placement may not be changed, this does not preclude using normal procedures for dealing with children who are endangering themselves or others. Such procedures do not include expulsion or suspension over ten days; however, the procedures may include time-out, detention, restriction of privileges, or temporary suspension up to ten days.
2. If the issues involves an application for initial admission to the school, the child of school age with consent of the parent, must be placed in the regular school program until the completion of all proceedings.

M. Commencement of the Due Process Hearing

1. Request for hearing shall be made to the School Board.

**INSTRUCTION**Special Education (continued)M. Commencement of the Due Process Hearing (continued)

2. Stafford County Public Schools will inform the parent of any free or low-cost legal or other relevant services available in the area when:
  - a. the parent requests the information; or
  - b. the parent of Stafford County Public Schools initiates a hearing.
3. A hearing officer shall be appointed according to the Hearing Officer System of Rules of Administration Promulgated by the Supreme Court of Virginia. The school will ensure that the timelines are met as designated by the Hearing Officer System of Rules of Administration Promulgated by the Supreme Court of Virginia.
4. Pre-Hearing Responsibilities
  - a. Stafford County Public Schools will complete all pre-hearing responsibilities including the confirmation of the hearing officer; maintaining correspondence to the hearing officer, parents and State Education Agency and providing a court stenographer.
5. Responsibilities of the Hearing Officer - Pre-Hearing
  - a. The hearing officer will comply with all timelines and responsibilities as designated including notifying all parties regarding location, time, date of hearing, ascertaining whether the hearing will be open and whether legal counsel will be present protecting the rights of all parties; reporting the finding of facts and rendering a decision on the matter.

**INSTRUCTION**Special Education (continued)M. Commencement of the Due Process Hearing (continued)

## 6. Rights of Parties to the Hearing

- a. Any party to a hearing shall have the right to:
  - 1) Be accompanied and advised by counsel and/or by individuals with special knowledge or training concerning the problems of disabled children without being in violation of the provisions of §54.1-3904 of the Code of Virginia as amended.
  - 2) Present evidence and confront, cross-examine, and request the hearing officer to compel the attendance of witnesses.
  - 3) Prohibit the introduction of any evidence at the hearing that has not been disclosed to the other party at least five administrative working days before the hearing.
  - 4) Obtain a written or electronic verbatim record of the hearing upon request and in connection with an appeal.
  - 5) Receive written findings of fact and decisions rendered by the hearing officer.
  - 6) Receive a copy of the implementation plan.

**INSTRUCTION**Special Education (continued)M. Commencement of the Due Process Hearing (continued)

b. The parent(s) involved in a hearing must be given the right to:

1) have the child who is the subject of the hearing present; and

2) open the hearing to the public.

## 7. Administrative Appeal and Impartial Review

a. If there is an appeal of the decision of a hearing officer, the SEA shall ensure an impartial review of the hearing. The review will be conducted by a reviewing officer appointed according to the Hearing Officer System Rules of Administration Promulgated by the Supreme Court of Virginia. The SEA will ensure the appointment within two administrative days of the receipt of a request for a review of a due process hearing. The official conducting the review shall:

1) examine the entire hearing record;

2) ensure that the procedures at the hearing were consistent with the requirements of due process;

3) seek additional evidence, if necessary. If a hearing is held to receive additional evidence, then all hearing rights as specified in this section apply;

4) afford the parties an opportunity for oral or written argument, or both, at the discretion of the reviewing official;

**INSTRUCTION**Special Education (continued)M. Commencement of the Due Process Hearing (continued)7. Administrative Appeal and Impartial Review  
(continued)

- 5) advise all parties of their right to continue to be represented by counsel whether or not the reviewing official determines that a further hearing is necessary;
- 6) make an independent decision upon completion of the review; and
- 7) give a copy of written findings and the decision(s) to the parties to the appeal, the LEA and to the SEA in the manner prescribed.

- b. The decision made by the reviewing official is final, unless any party aggrieved by the findings and decisions of the administrative review brings civil action in any state court of competent jurisdiction or in federal district court within one year.

In any such action or proceeding, the court, in its discretion, may award reasonable attorney's fees as part of the costs to the parents or guardian of a disabled child or youth who is the prevailing party.

If a written offer to settlement is made to a parent or guardian within the time prescribed by Rule 68 of the Federal Rules of Civil Procedure, or, in the case of an administrative proceeding, at any time more than 10 days before the proceeding begins, and the offer is not accepted within 10 days and the court or administrative officer finds that the relief finally obtained by the parents or guardian is not more favorable to the parent or guardian than the offer of settlement, no award of attorney's

**INSTRUCTION**Special Education (continued)M. Commencement of the Due Process Hearing (continued)7. Administrative Appeal and Impartial Review  
(continued)

fees and related costs may be made for services performed subsequent to the time of such offer, unless the court finds that the prevailing party was reasonably justified in rejecting the settlement offer.

## 8. Costs of Due Process Hearing and State Review

- a. Costs for a local hearing will be shared equally by the Stafford County Public Schools and the SEA. The costs shared by the SEA shall include expenses of the hearing officer (i.e., time, travel, secretarial, postal and telephone expenses), expenses incurred by order of the hearing or reviewing officer (i.e., independent educational evaluations, deposition or transcript), and expenses for making a record of a hearing (i.e., hearing tapes and/or stenographer). The SEA will not be liable to the LEA for expenses incurred for witnesses (except where hearing or reviewing officers subpoena witnesses on their own initiative) or for attorney's fees.
- b. The SEA shall be responsible for all approved costs for state reviews.

## 9. Implementation Plan

- a. Stafford County Public Schools shall develop an implementation plan within 45 calendar days of concluding a due process hearing. Such plan will be based upon the decision of the hearing officer, the reviewing officer, or agreement between the parties. The implementation plan must state how and when the decision or agreement will be put into operation.



**INSTRUCTION**Special Education (continued)M. Commencement of the Due Process Hearing (continued)

## 9. Implementation Plan (continued)

If the decision or agreement affects the child's educational program, the revised IEP will be made a part of the implementation plan. The implementation plan will include the name and position of a case manager in the LEA charged with implementing the decision. Copies of this plan will be forwarded to the parties to the hearing, the hearing and/or reviewing officer, and the SEA.

- b. Failure of either of the parties to comply with the implementation plan will be reported to the SEA for investigation and/or appropriate action.

## 10. Due Process File

Stafford County Public Schools will maintain a file containing the following:

- a. a copy of the hearing and reviewing officer's findings of fact and decision(s);
- b. a copy of the implementation plan;
- c. a copy of the electronic or verbatim transcript of the hearing proceedings; and
- d. a copy of all documents and exhibits presented at the due process hearing and state level review.

## 11. Confidentiality of Information

The Confidentiality of Information will be as set forth in the Management of the Student's Scholastic Record.

**INSTRUCTION**Special Education (continued)M. Commencement of the Due Process Hearing (continued)

## 12. Complaint Procedure

Complaints regarding violations of rights of parents and/or disabled children will be addressed to the complaint officer designated by the SEA, with the additional requirements as follows:

- a. procedures for filing a complaint with the SEA are designated by the Complaint Management Department of the SEA.

N. Consent

1. Parents have the right to give written consent before Stafford County Public Schools conducts preplacement evaluation or initially places a child in a program providing special education and related services.
2. Consent means that parents have been fully informed of all information relevant to the activity for which consent is sought, in their native language, or mode of communication. It also means parents have agreed in writing to the carrying out of the activity for which the consent is being sought and the consent describes that activity and lists the records (if any) which will be released and to whom. Parents should also understand that the granting of that consent is voluntary and may be revoked at any time.
3. Evaluations means procedures used in accordance with federal and state regulations to determine whether a child is disabled and the nature and extent of the special education and related services that the child needs. The term means procedures used selectively with an individual child and does not include basic test administered to or procedures used with all children in a school, grade, or class.

**INSTRUCTION**Special Education (continued)N. Consent (continued)

4. Parents shall be informed that if they do not provide consent for preplacement evaluation or initial placement, Stafford County Public Schools may use the state procedures for due process hearing described in this notice to override a refusal to give consent.
5. Parents shall be informed that, except for preplacement evaluation and initial placement, consent may not be required as a condition of any benefit to the parent or child.
6. Parent shall be informed that consent must be obtained before any change in the program/placement, including any partial or complete termination of special education and related services, except for expulsion and graduation. Consent for placement may be revoked up until the first day of placement.
7. Parents shall give written consent before any change in identification of a disabled child; and any evaluation which is conducted other than the assessment components required for the triennial evaluations. Parental consent is not necessary for reviewing the child's records for conducting a reevaluation.
8. Parents shall be informed that: except for preplacement evaluation and initial placement, consent or refusal to give consent for those other situations requiring consent will be given by the parent to Stafford County Public Schools within ten administrative working days after the notice is received. If the parent fails to notify Stafford County Public Schools within ten administrative working days, Stafford County Public Schools may proceed as if consent has been granted, and the parent must initiate due process to contest the action. If the parent refuses to give consent, Stafford County Public Schools will attempt to resolve parental withholding of

**INSTRUCTION**Special Education (continued)N. Consent (continued)

consent through informal means. If those informal methods are not successful, Stafford County Public Schools must use other measures as necessary to ensure that, except for preplacement evaluation and initial placement, parental refusal to consent will not result in a denial of a necessary free appropriate public education.

O. Personnel Development

Stafford County Schools maintains and utilizes procedures for the development and implementation of a comprehensive system of personnel development:

- a. The Assistant Superintendent for Instruction is responsible for training general and special education instructional, related services, and support personnel; and
- b. The Director of Personnel is responsible to see that the instructional programs or delivery of related or support services to disabled children are properly certified and endorsed.

P. Surrogate Parents

## 1. Role of Surrogate Parent

- a. The surrogate parents requirement in both state and federal laws and regulations is intended to ensure appropriate decision making in educational matters. The surrogate parent is an advocate acting to serve the best education interests of a child who is suspected of being or is determined to be disabled. State and federal regulations require that the surrogate parent represent the child in all matters relating to:
  - 1) the identification, evaluation, or educational placement of the child; or,

**INSTRUCTION**Special Education (continued)P. Surrogate Parents (continued)

## 1. Role of the Surrogate Parent (continued)

- 2) the provision of a free appropriate public education to the child.

## 2. Appointment of Surrogate Parents

- a. Children (ages 2 to 21, inclusive), who are suspected of being or determined to be disabled, whose parents or guardian(s) have allowed relatives or private individuals to act as parents to the child, DO NOT require a surrogate parent.
- b. A surrogate parent will be appointed for a child, ages 2 to 21, inclusive, who is suspected of being or determined to be disabled when:
  - 1) no parent or person who has been allowed to act as a parent by the natural parent(s) or guardian(s) can be identified;
  - 2) the school after reasonable efforts, cannot discover the location of a parent; or,
  - 3) legal custody of the child and all parental rights and responsibilities for the care and custody of the child have been terminated by court order or permanent entrustment agreement pursuant to applicable law.
- c. Stafford County Public Schools shall identify children in its jurisdiction who are in need of surrogate parents, according to the definition.

**INSTRUCTION**Special Education (continued)P. Surrogate Parents (continued)

## 2. Appointment of Surrogate Parents (continued)

- d. Stafford County Public Schools shall implement procedures for assigning a surrogate parent to an eligible child. The surrogate parent shall be appointed by Stafford County Schools Superintendent or designee.
- e. The appointment having been effected, the school will notify in writing:
  - 1) the disabled child (ages 2 to 21, inclusive), as appropriate to the disability;
  - 2) the surrogate parent-appointee;
  - 3) the person charged with responsibility for the child;
  - 4) the public agency charged with responsibility for the child, when the child is a ward of the State; and
  - 5) the State Department of Education.
  - 6) Stafford County Public Schools will send parent's copy of notice to child's guardian and/or custodial state agency. In instances where the school has not been able to locate the present whereabouts of the parent(s), a letter to the parent's last known address is evidence of the school's good faith effort to effect this requirement.
- f. The surrogate parent will serve during, or for the duration of, the school year for which he/she is appointed.

**INSTRUCTION**Special Education (continued)P. Surrogate Parents (continued)

## 2. Appointment of Surrogate Parents (continued)

- 1) When it has been determined that the child requires a differentiated instructional program as delineated in the IEP , the surrogate parent will be appointed to serve for the duration of that current document.
  - 2) Should a child require the services of a surrogate parent during the summer months, the school will extend the appointment as needed, consistent with timelines required by law.
- g. At the conclusion of each school year appointment of surrogate parents shall be renewed or not renewed following a review by Stafford County Public Schools.
- h. Stafford County Public Schools shall implement procedures which include conditions and methods for changing or terminating the assignment of surrogate parent before his/her appointment has expired. These procedures shall provide the right to request a hearing to challenge the qualifications or termination if the latter occurs prior to the end of the term of appointment. The assignment of a surrogate parent may be terminated only when one or more of the circumstances occur as follows:
- 1) the child reaches the age of majority (except those persons who are of the age of majority but who are determined to be legally dependent and subject to a guardianship);

**INSTRUCTION**Special Education (continued)P. Surrogate Parents (continued)

## 2. Appointment of Surrogate Parents (continued)

- 2) the child is found to be no longer eligible for special education services (except when termination of special education services is being contested);
- 3) legal guardianship for the child is transferred to a person who is able to carry out the role of the parent;
- 4) a parent, who was previously unknown or unavailable, is now known or available; and
- 5) the appointed surrogate parent is no longer eligible.

## 3. Identification and Recruitment of Surrogate Parents

- a. Stafford County Public Schools maintains a list of individuals also within its jurisdiction who are qualified to serve as surrogate parents. It may be necessary for schools to go beyond jurisdiction limits in generating a list of potentially qualified surrogate parents. It should be noted, however, that geographic proximity is essential to the surrogate parent/disabled child relationship.
- b. Individuals who are not on the list may be eligible to serve as surrogate parents, subject to Stafford County Public Schools' discretion. In such instances, the needs of the individual child and the availability of qualified persons who are familiar with the child and who would otherwise qualify will be considerations in the schools' determination of surrogate eligibility.



**INSTRUCTION**Special Education (continued)P. Surrogate Parents (continued)

## 3. Identification and Recruitment of Surrogate Parents (continued)

Other factors which warrant the school's attention shall include

- 1) consideration of the appointment of a relative to serve as surrogate parent;
- 2) consideration of the appointment of a foster parent who has the knowledge and skills to represent the child adequately;
- 3) consideration of the appointment of a qualified person of the same racial, cultural, and linguistic background as the child who is suspected of being or has been identified as being disabled; and,
- 4) the appropriateness of the child's participation in the selection of his/her surrogate parent.

## 4. Qualifications of Surrogate Parents:

- a. The school will ensure that a person appointed as surrogate:
  - 1) has no interest that conflicts with the interest of the child he/she represents;
  - 2) has knowledge and skills that ensure adequate representation of the child;
    - a) The prospective surrogate parent must have completed an SEA approved training session prior to representing the child.

**INSTRUCTION**Special Education (continued)P. Surrogate Parents (continued)

## 4. Qualifications of Surrogate Parents: (continued)

- b) Stafford County Schools will provide training, at least annually, for surrogate parents to ensure that they possess knowledge of special education and related services for disabled children, as well as knowledge of the legal requirements necessary to represent the children effectively.
- 3) is not an employee of a public agency which is involved in the education or care of the child;
- 4) is an adult and legal citizen of the United States; and,
- 5) resides in the same general geographic areas as the child, whenever possible.

## 5. Rights of Surrogate Parents:

- a. The surrogate parent, when representing the child's educational interests, has the same rights as those accorded to parents of children determined or suspected to be disabled.
  - 1) Surrogate parents retain the right to question the appropriateness of the child's educational program and placement in situations as follows:
    - a) When the identified disabled child has already been placed prior to the surrogate parent appointment, or

**INSTRUCTION**Special Education (continued)P. Surrogate Parents (continued)

## 5. Rights of Surrogate Parents: (continued)

- b) When the placement or IEP appears to be different from that to which the surrogate parent gave consent.

## 6. Responsibility of Surrogate Parents:

- a. Representing the child in all matters relating to the identification, evaluation and educational placement and the provisions of a free appropriate public education, the surrogate parent assumes responsibilities as follows:
  - 1) to act in place of a parent for the child concerning his/her educational program;
  - 2) to receive the notice(s) and give(s) or refuse(s) consent to evaluation and/or placement of the child;
  - 3) to attend planning conferences to develop an IEP; and
  - 4) to be familiar with appropriate procedures for due process, confidentiality, and access to the child's records.
- b. The surrogate parent is required to have the knowledge and skills to execute these responsibilities. Stafford County Schools procedures ensure that the above requirement is satisfied.

**INSTRUCTION**Special Education (continued)Q. Individualized Education Program (IEP)

## 1. Definition

The term "individualized education program" (IEP) means a written statement for a disabled child that is developed and implemented in accordance with these regulations.

## 2. Responsibility

The school principal, with the help of the special education teacher and guidance counselor, should ensure that an IEP is developed and implemented for each disabled child in the school's jurisdiction.

## 3. Accountability

## a. An IEP must:

- 1) be in effect before special education and related services are provided to a child; and
- 2) be developed within thirty (30) calendar days of a determination that the child needs special education and related services with placement effected as soon as possible.

b. Each principal shall initiate and conduct meetings periodically to review each child's IEP and, where appropriate, revise its provisions. A meeting must be held for this purpose at least once a year.

**INSTRUCTION**Special Education (continued)Q. Individualized Education Program (IEP) (continued)

## 4. Participants in Meetings

a. The principal shall ensure that each meeting includes the following participants:

- 1) a representative of the school, other than the child's teacher, who is qualified to provide, or supervise the provision of, special education;
- 2) the child's teacher;
- 3) one or both of the child's parents (see regulations below for parental participation);
- 4) the child, when appropriate;
- 5) other individuals at the discretion of the parents or principal.

b. For disabled child who has been evaluated for the first time, the principal shall ensure that:

- 1) a member of the evaluation team participates in the meeting; or
- 2) the guidance counselor, the principal, the child's teacher or some other person is present at the meeting, who is knowledgeable about the evaluation procedures used with the child and is familiar with the results of the evaluation.

**INSTRUCTION**Special Education (continued)Q. Individualized Education Program (IEP) (continued)

## 5. Parent Participation

- a. Each principal shall take steps to ensure that one or both of the parents of the disabled child are present at each meeting or are afforded the opportunity to participate, including:
  - 1) notifying parents of the meeting early enough to ensure that they will have an opportunity to attend; and
  - 2) scheduling the meeting at a mutually agreed time and place.
- b. The notice given the parents and/or agency assigned legal custody (if any) must indicate the purpose, time and location of the meeting, and who will be in attendance.
- c. If neither parent can attend, the principal shall use other methods to ensure parent participation, such as telephone calls.
- d. A meeting may be conducted without a parent in attendance if the principal is unable to convince the parents that they should attend. In this case, the school must have a record of the attempts to arrange a mutually agreed on time and place, such as:
  - 1) detailed records of telephone calls made or attempted and the results of those calls;
  - 2) copies of correspondence sent to the parents and any responses received;
  - 3) detailed records of visits made to the parents' home or place of employment and the results of those visits.

**INSTRUCTION**Special Education (continued)Q. Individualized Education Program (IEP) (continued)

## 5. Parent Participation (continued)

- e. The principal shall take whatever action is necessary to ensure that the parent understands the proceedings at a meeting, including arranging of an interpreter for parents who are deaf or whose native language is other than English.

## 6. Content of Individualized Education Program

The IEP for each child must include:

- a. A statement of the child's present levels of educational performance.
- b. A statement of annual goals, including short term instructional objectives.
- c. A statement of the specific special education and related services to be provided to the child, and the extent to which the child will be able to participate in regular educational programs.
- d. The projected dates for initiation of services and the anticipated duration of the services.
- e. Appropriate objective criteria and evaluation procedures and schedules for determining, on at least an annual basis, whether the short term instructional objectives are being achieved.

**INSTRUCTION**

Special Education (continued)

Editor's Note

See also school board policy #6-28.

**Legal Reference:** (1990)

Virginia Department of Education, **Regulations Governing Special Education Programs for Handicapped Children and Youth in Virginia**, effective July 1, 1990.

Approved by Division Superintendent: May 12, 1992